

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

AZIZ CHOUKRI,  
BOP Reg. #63892-509,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

- \* MOTION TO VACATE
- \* 28 U.S.C. § 2255
- \*
- \*
- \* CRIMINAL ACTION NO.
- \* 1:21-CR-342-ELR
- \*
- \* CIVIL ACTION NO.
- \* 1:23-CV-4750-ELR
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**O R D E R**

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This matter is before the Court for consideration of the Report and Recommendation (“R&R”) of Magistrate Judge John K. Larkins. [Doc. 98]. Petitioner filed a *pro se* §2255 Motion. [Doc. 69]. Judge Larkins recommends that the § 2255 motion [Doc. 69] be (1) **GRANTED IN PART** as to Ground 2(2) only, and that Petitioner be allowed to file an out-of-time appeal in accordance with the procedure described in United States v. Phillips, 225 F.3d 1198 (11th Cir. 2000), and (2) **DISMISSED IN PART WITHOUT PREJUDICE** as to all other grounds presented. Judge Larkins also recommends that a Certificate of Appealability be denied.

After conducting a careful and complete review of a magistrate judge's findings and recommendations, a district court judge may accept, reject, or modify a magistrate judge's R&R. 28 U.S.C. § 636(b)(1)(C); Williams v Wainwright, 681 F.2d 732 (11<sup>th</sup> Cir. 1982). No objections to the magistrate judge's R&R have been filed, and therefore, the Court has reviewed the R&R for plain error. See United States v Slay, 714 F.2d 1093, 1095 (11<sup>th</sup> Cir. 1983). The Court finds no error.

Accordingly the Court **ADOPTS** the R&R [Doc. 98] as the Opinion and Order of this Court. For the reasons stated in the R&R, the Court (1) **GRANTS IN PART** as to Ground 2(2) only, and that Petitioner be allowed to file an out-of-time appeal in accordance with the procedure described in United States v. Phillips, 225 F.3d 1198 (11th Cir. 2000), and (2) **DISMISSES IN PART WITHOUT PREJUDICE** as to all other grounds presented. Additionally, the Court **DECLINES** to issue a certificate of appealability. The Court **DIRECTS** the Clerk to **CLOSE** the civil case associated with Petitioner's § 2255 Motion: Civil Action No. 1:23-CV-4750-ELR.

**SO ORDERED**, this 7th day of April, 2025.



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Eleanor L. Ross  
United States District Judge  
Northern District of Georgia